

BEFORE THE DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 36.25.801, 36.25.802,)
36.25.805, 36.25.808, 36.25.809, and)
36.25.811 pertaining to the land)
banking program)

To: All Concerned Persons

1. On August 25, 2011, the Department of Natural Resources and Conservation published MAR Notice No. 36-22-151 regarding a notice of public hearing on the proposed amendment of the above-stated rules at page 1618 of the 2011 Montana Administrative Register, Issue No. 16.

2. No written comments or oral testimony pertaining to the rulemaking were received.

3. The department has amended ARM 36.25.801, 36.25.802, 36.25.805, 36.25.808, and 36.25.809 as proposed.

4. The department has further reviewed the proposed amendments to ARM 36.25.811 and determined that the proposed language in (3) was redundant since inter-entity loans are already authorized under 17-2-107, MCA. Also, the department has put in language to account for the eventual expiration of the land banking program. The department believes that none of these amendments substantially change the rule as proposed.

5. The department has amended ARM 36.25.811 as proposed, but with the following changes from the original proposal, new matter underlined, deleted matter interlined:

36.25.811 THE LAND BANKING TRUST FUNDS

(1) through (2) remain as proposed.

(3) Proceeds from the sale of land from trusts may be pooled to acquire tracts of land to add to state trust land, if approved by the board after consultation with the affected beneficiaries. ~~Using funds from multiple trusts allows the department to acquire land for more than one trust or to ultimately purchase land for a single trust if sufficient funds are not available from that trust at closing.~~

~~(a) Where land has been acquired in common for several trust beneficiaries, and the department wishes to transfer the beneficial ownership of the land to a single trust, or another trust, the department may do so by purchasing the property interests held for the other trust or trusts by remitting to their trust accounts:~~

~~(i) the initial purchase funds attributable to their undivided ownership in the land; and~~

~~(ii) the interest that would have accrued to the divesting trust or trusts as invested with the Board of Investment (BOI) short-term investment pool (STIP). The interest shall be paid from the date that the parcel was acquired for the benefit of a trust or trusts up to the date of the transfer of the beneficial ownership by the department to another trust or trusts and the transfer of funds from the acquiring trust account(s) to the divesting trust account(s); provided that,~~

~~(iii) such trust transfer purchases shall be restricted to a one-year period of time after the initial acquisition of the land for two or more trust beneficiaries.~~

(4) When land banking expires, any proceeds remaining in the state trust land bank fund must be expended by the tenth year after the effective date of each sale.

(5) Any remaining proceeds must be deposited in the appropriate permanent trust fund.

(4) remains as proposed but is renumbered (6).

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

/s/ Mary Sexton
MARY SEXTON
Director

/s/ Tommy Butler
Tommy Butler
Rule Reviewer

Certified to the Secretary of State October 31, 2011.